

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

PETER DEPECHE,

Plaintiff,

v.

Civil No. 09-1101-HA

STATE OF OREGON,

ORDER

Defendant.

HAGGERTY, District Judge:

Plaintiff filed this action on September 17, 2009, and on that same date filed a motion to stay the action. By Order issued October 5, 2009, plaintiff's motion was granted under the explicit condition that plaintiff file a written status report on November 2, 2009, and every thirty days thereafter, indicating the posture of his litigation. Plaintiff was warned that failure to comply would result in the dismissal of the action.

Plaintiff failed to file his first status report in a timely fashion (it was filed on November 17, 2009). Plaintiff has since failed to file any reports.

A district court may dismiss an action for non-prosecution. Fed. R. Civ. P. 41(b); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992). In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring disposition of cases on their merits and (5) the availability of less drastic sanctions. *See Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988), *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986).

Here, despite explicit instructions from the court, plaintiff has failed to prosecute this action in a timely fashion. Accordingly, the court is compelled to dismiss the case with prejudice.

Moreover, this court has examined defendant's Motion to Dismiss [7]. The court concludes that the motion is meritorious, and presents alternative grounds for dismissing the case.

IT IS SO ORDERED.

DATED this 8 day of February, 2010.

/s/ Ancer L. Haggerty
Ancer L. Haggerty
United States District Judge